

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653 (KRH)
.
.
.
Chapter 11
Jointly Administered
CIRCUIT CITY STORES, .
INC., et al., . 701 East Broad Street
Richmond, VA 23219
.
Debtors. .
.
December 17, 2013
. 2:23 p.m.

TRANSCRIPT OF HEARING
BEFORE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Tavenner & Beran, PLC
By: LYNN L. TAVENNER, ESQ.
PAULA S. BERAN, ESQ.
20 North Eighth Street, 2nd Floor
Richmond, VA 23219

For Sony Computer: Reed Smith LLP
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1 COURT CLERK: Item 2, Circuit City Stores,
2 Incorporated, Items 1 through 55 on proposed agenda.

3 MS. TAVENNER: For the record, again, Your Honor,
4 Lynn Tavenner of the law firm of Tavenner & Beran. My law
5 partner, Paula Beran, is also here and seated at counsel table
6 with Ms. Catherine Bradshaw, the senior trust representative.

7 Your Honor, we have several matters on the docket
8 today and Ms. Beran will have her chance to speak with the
9 majority of the papers that we have filed. Before I turn the
10 podium over to her, Your Honor, I would like to address the
11 first matter that's on the docket, which is the Adversary
12 Number 10-03581, Siegel against Sony Computer Entertainment
13 America, Inc.

14 Your Honor, this matter is on the docket on a motion
15 to extend time relating to -- actual, we were requesting
16 judicial mediation. I'm happy to report that the underlying
17 matter has been resolved. It has now -- since we were last
18 here, the proposed terms have been approved by the oversight
19 committee which was required and it's now -- we are trying to
20 finalize with regard to Sony Computer in actually getting the
21 written document completed.

22 Because of that, Your Honor, we would respectfully
23 request that you carry this matter over until your January 30th
24 date.

25 THE COURT: All right, very good. You wish to be

1 heard on that?

2 MR. MANCHESTER: Curtis Manchester, Your Honor, for
3 Sony Computer Entertainment America. Everything that Ms.
4 Tavenner said is correct and we look forward to continuing to
5 work with the trust to finalize the papers. Thank you.

6 THE COURT: All right. Thank you very much. All
7 right, Ms. Tavenner, that matter will be carried over then to
8 the January date.

9 MS. TAVENNER: Thank you, Your Honor. That brings us
10 then to the various claims objections which Ms. Beran will
11 handle. But, Your Honor, in advance of doing that, I did want
12 to alert the Court to one claims matter.

13 It relates to the liquidating trust's omnibus
14 objection 18 which related to certain tax objections. In
15 addition, Your Honor, there are other potential objections that
16 were filed by the debtors with regard to taxes that we are in
17 the process of going back to verify whether or not they need to
18 be cleaned up with respect to the matter relating to the
19 Internal Revenue Service.

20 I'm happy to report, Your Honor, that we are in
21 dialogue with the Internal Revenue Service with regard to the
22 best way to address their claims that are still pending on the
23 docket and which have been objected to. And what we are
24 expecting is going to occur very soon, hopefully by the end of
25 next week, because Mr. Richard Stein who is the attorney

1 handling this for the IRS is retiring at the end of the year.
2 I personally am in dialogue with him as to the preparation of a
3 stipulation that will address all of the Internal Revenue's
4 claims and the appropriate way to handle that.

5 And the importance of it to the trust, Your Honor, is
6 that a lot of amended tax returns have been filed. Mr. Jeff
7 McDonald, who you've met before, has spent just hours upon
8 hours with regard to these taxes. Tax -- amended returns have
9 been filed which will result in refunds coming back to the
10 trust. The IRS does not want to issue any type of refunds
11 until we have a stipulation that Your Honor has agreed to which
12 provides that, for the claims that are ultimately allowed, they
13 will be allowed offsets with respect to that so that, if you
14 will, Your Honor, the IRS only wants to wire one amount and
15 that to be the final number. They don't want to have to have
16 true-ups going back and forth.

17 So we are finalizing that document. I wanted to
18 alert you to that so that when it comes in to you, you won't
19 say, what is this. And we will talk with the clerk's office to
20 let them know that we'll -- it's just a Word document, it will
21 come in through BOPS -- to alert them to the appropriate
22 objections that are on the docket that we would suggest they be
23 linked to.

24 So that's a long way of talking about a matter that's
25 not on the docket today. It tangentially relates to one but it

1 is of huge importance to the trust and I did want to alert you
2 to it before it comes in and you had questions.

3 THE COURT: Do we anticipate receiving that
4 stipulation prior to year end?

5 MS. TAVENNER: Yes, Your Honor.

6 THE COURT: All right, very good. All right. Well,
7 that certainly is excellent news and I will look for that then
8 and let me know when it needs to be addressed --

9 MS. TAVENNER: All right.

10 THE COURT: -- once that's filed. But that is
11 welcome news.

12 MS. TAVENNER: Thank you, Your Honor. We will alert
13 you. And that then brings us to Item Number 2 on the agenda
14 and I will turn the podium over to Ms. Beran.

15 THE COURT: All right, very good.

16 MS. BERAN: Good afternoon, Your Honor.

17 THE COURT: Good afternoon.

18 MS. BERAN: For the record, Paula Beran on behalf of
19 the liquidating trust. And I believe I have the most exciting
20 speaking part of the day, as it relates to all these numerous
21 --

22 THE COURT: I thought that was earlier.

23 (Laughter)

24 MS. BERAN: -- these numerous claims objections.

25 Your Honor, Items Number 2 through 7 are the remaining claims

1 that remain outstanding as it relates to the debtors' omnibus
2 objections. We respectfully request that all of those items as
3 identified on Exhibit A be continued until the February 20th
4 omnibus hearing date.

5 THE COURT: All right. They'll be continued to the
6 February date.

7 MS. BERAN: Thank you, Your Honor. That allows us to
8 go to Page 29.

9 THE COURT: All right.

10 MS. BERAN: Your Honor, Items Number 8 through 12 on
11 the agenda relate to what has commonly been referred to as the
12 stand-alone tax objections. We'd respectfully request that
13 they be continued to the 2/20 omni hearing.

14 THE COURT: They'll be continued, as well, to the
15 February date.

16 MS. BERAN: Thank you, Your Honor. Turning then to
17 Page 48 on the agenda, Item Number 13. As indicated on Exhibit
18 B, certain of those claims have been resolved and may be
19 removed from the Court's docket. The remaining claims
20 identified on Exhibit B, we'd respectfully request that they be
21 continued until the February 20th date.

22 THE COURT: They'll be continued to February 20.

23 MS. BERAN: Thank you, Your Honor. That allows us to
24 turn to Page 62, Item Number 14. Your Honor, as indicated on
25 Exhibit B, the status columns for two of the claims of CC

1 Colonial, we indicated that those claims may be expunged. I
2 apologize, Your Honor. I probably should have given more
3 detail.

4 As it relates to the expungement of those claims or
5 of the objection being sustained as it relates to those claims,
6 the claim objection deadline had been extended out for the
7 responses as it related to that entity. The time was set as it
8 relates to when response was supposed to be filed. That one
9 wasn't extended out. They chose not to respond so that the
10 claims could be sustained.

11 So based on that, Your Honor, we'd respectfully
12 request that those two claims, the objection be sustained and
13 in essence the claims will be expunged and we would be
14 tendering an order accordingly.

15 THE COURT: All right, very good. I'll look for
16 that.

17 MS. BERAN: Thank you, Your Honor. As it relates to
18 the remaining items as identified on Exhibit B, we'd
19 respectfully request that they be continued until the 2/20
20 hearing.

21 THE COURT: They'll be continued to February 20.

22 MS. BERAN: Thank you, Your Honor. That allows us to
23 turn to Page 75 which starts with the liquidating trust's third
24 omnibus objection. Actually, Items 15 through 23 on the
25 agenda, we'd respectfully request that they be continued for

1 the items identified on Exhibit B to the 2/20 omnibus hearing
2 date.

3 THE COURT: They'll be continued.

4 MS. BERAN: Thank you, Your Honor. That allows us to
5 jump to Page 178. Starting with Items Number 23 but Items 23,
6 24 and 25. As indicated on Exhibit B, certain of those claim
7 objections have been resolved and may be removed from the
8 Court's docket. We'd respectfully request for those items,
9 that the remaining as identified on Exhibit B be continued
10 until the 2/20 hearing.

11 THE COURT: They'll be continued to February 20.

12 MS. BERAN: Thank you, Your Honor. That allows us to
13 skip to Page 217, Item Number 26. This is the liquidating
14 trust's eighteenth omnibus objection.

15 Your Honor, as it relates to this one, I would note
16 at the last hearing, two omnis ago, this last status hearing on
17 these claims, I reported to Your Honor that the claims related
18 to the tax entity Broward had actually been resolved but in
19 connection with the resolution due to regulations of that
20 municipality that they weren't allowed to enter into any type
21 of settlement agreement and/or stipulation and that we would
22 just therefore be addressing those claims in connection with an
23 order.

24 I can represent to Your Honor that we had tendered a
25 proposed order to that entity, the people that we were dealing

1 with at that entity, and to date we have not received any
2 response. We fear that it may be that they cannot -- similarly
3 cannot agree to the terms of an order, notwithstanding the fact
4 that the underlying treatment has been agreed to by the
5 businesspeople.

6 So at this point in time, Your Honor, we are just
7 going to tender that order at it relates to that omnibus
8 objection and the resolution of the Broward County -- Broward
9 and its two related Broward entities and the claims associated
10 therewith.

11 THE COURT: Okay. And you'd be tendering the order
12 in what kind of a capacity? I mean, would it be on a -- like
13 similar to a motion for summary judgment or what is the vehicle
14 that would allow me to enter it if they don't agree?

15 MS. BERAN: Well, but the businesspeople agree and I
16 have e-mails as it relates to the businesspeople. And they
17 actually suggested the entry of an order as opposed to a
18 settlement agreement like we've done in the other instances.

19 THE COURT: Well, would you notice it? Like, the day
20 before our next omnibus hearing date say that we're going to
21 present this attached order for entry to the Court --

22 MS. BERAN: Yes.

23 THE COURT: -- and such, so they've got notice of
24 this and if they don't raise any objection, then I can do it.
25 Or on some sort of negative notice if you don't want to wait

1 that long.

2 MS. BERAN: Your Honor, I think it probably would be
3 more appropriate to go ahead and notice it for a date certain
4 and come in before Your Honor and say no other response --

5 THE COURT: That way, if there is some -- if they say
6 well wait, we object, you say, come on in to court because
7 we're tendering this order and we could actually get it
8 resolved.

9 MS. BERAN: Your Honor, that's exactly how we will
10 proceed, thank you.

11 THE COURT: Excellent. That's what I thought you
12 said.

13 MS. BERAN: Thank you, Your Honor. Your Honor, the
14 other items as identified on Exhibit B, we respectfully request
15 that they be continued until the February 20th hearing.

16 THE COURT: They'll be continued.

17 MS. BERAN: Thank you, Your Honor. That allows us to
18 turn to Page 228, I believe, Items Number 27 and 28. As
19 indicated on Exhibit B, certain of those claims have been
20 resolved and may be removed from the Court's docket. As it
21 relates to the remaining ones identified on Exhibit B, we'd
22 respectfully request that they be continued until the 2/20
23 hearing.

24 THE COURT: They'll be continued to 2/20.

25 MS. BERAN : Thank you, Your Honor. That allows us

1 to turn to Page 254, Item Number 29, and actually, Your Honor,
2 Items 29, 30 and 31. We'd respectfully request that the claims
3 identified on Exhibit B be continued until the 2/20 omnibus
4 hearing.

5 THE COURT: They'll be continued.

6 MS. BERAN: Thank you, Your Honor. That allows us to
7 turn to Page 287, Item Number 32, the liquidating trust's
8 twenty-sixth omnibus objection. As identified on Exhibit B,
9 certain of those claims have been resolved. As it relates to
10 the remaining claims on Exhibit B, we respectfully request that
11 they be continued until the February 20th omnibus date.

12 THE COURT: All right. Those claims will be
13 continued.

14 MS. BERAN: Thank you, Your Honor. That allows us to
15 turn to Page 297, Your Honor, Item Number 33. For the one
16 remaining claim on that omnibus objection, Your Honor, we'd
17 respectfully request that it be continued until the 2/20 omni.

18 THE COURT: It'll be continued to the 2/20 omni.

19 MS. BERAN: Thank you, Your Honor. That allows us to
20 turn to Page 305, Item Number 34. As indicated on Exhibit B,
21 certain of those claims have been resolved. We'd respectfully
22 request that the remaining claims identified on Exhibit be
23 continued until the -- Exhibit B be continued until the
24 February 20th omnibus date.

25 THE COURT: They'll be continued.

1 MS. BERAN: Thank you, Your Honor. Turning then to
2 Page 317, Item Number 35. Your Honor, as it relates to Items
3 35 through 39, we'd respectfully request that the items as
4 identified on Exhibit B be continued until the February 20th
5 hearing.

6 THE COURT: Those matters will be continued.

7 MS. BERAN: Thank you, Your Honor. That allows us to
8 turn to Page 360, Item Number 40 and actually Items Number 40,
9 41, 42 and 43. As indicated on Exhibit B, certain of those
10 claims relating to those omnibus objections have been resolved
11 and may be removed from the Court's docket. The remaining
12 items, as listed on Exhibit B, we'd respectfully request that
13 those be continued until the February 20th omnibus date.

14 THE COURT: All right. Those will be continued to
15 the February date.

16 MS. BERAN: Thank you, Your Honor. That allows us to
17 turn to Page 409, Item Number 45, actually, Your Honor, it
18 would be Items 45 through 54. We'd respectfully request that
19 all of the claims identified on Exhibit B be continued until
20 the February 20th omnibus date.

21 THE COURT: All right. They'll be carried over to
22 February 20.

23 MS. BERAN: And, Your Honor, then that allows us to
24 turn to Page 473, Item Number 55. As indicated on Exhibit B,
25 certain of those claims have been resolved and may be removed

1 from the Court's docket. We respectfully request that the
2 remaining claims identified on Exhibit B be continued until the
3 2/20 omni hearing.

4 THE COURT: All right. They'll be continued to the
5 February date.

6 MS. BERAN: Thank you, Your Honor. Your Honor, that
7 then brings us to the end of the docket. To the extent Your
8 Honor has any questions, Ms. Tavenner and I are here today to
9 answer any that we might be able to and/or I'm sure Ms.
10 Bradshaw would assist in answering any questions or we could
11 seek information to answer Your Honor's questions.

12 THE COURT: All right, very good. The Court has no
13 specific questions with regard to any of the matters that are
14 on the docket. I'll look forward to getting that stipulation
15 regarding the Internal Revenue Service. You're going to notice
16 up that one hearing regarding the town tax authority. And I
17 think that takes care of what we need to take care of.

18 MS. BERAN: Correct, Your Honor. We will be BOPing
19 one other order as it related to the expunging to those two
20 claims on -- of CC Colonial.

21 THE COURT: Okay, very good. I'll look for that, as
22 well.

23 MS. BERAN: Thank you, Your Honor.

24 THE COURT: All right, thank you.

25 COURTROOM DEPUTY: All rise. Court is now adjourned.

* * * * *

C E R T I F I C A T I O N

I, STEPHANIE SCHMITTER, court approved transcriber,
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter, and to the best of my ability.

/s/ Stephanie Schmitter

STEPHANIE SCHMITTER

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DATE: December 30, 2013